

THE DEVELOPMENT OF CONTROLLED HIRING AND LABOR ALLOCATION IN THE UNITED STATES

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Introduction

All nations have recognized that, in modern total war, manpower represents a "scarce" resource, one of the most serious of such critical resources. Accordingly, before or immediately after entering the present war, all warring nations have taken steps that are calculated to conserve this essential and scarce resource and to so allocate and apportion it as to maximize its contribution to the war. They have, in other words, developed programs designed to mobilize all available manpower, to move it into the labor markets where it is most needed, and to assure its efficient utilization in such positions. To accomplish these ends they have imposed controls on hiring, by which the freedom of movement from job to job is restricted. They have thus sought to hold manpower in positions where it is already efficiently used in necessary activities and to move labor from points where it is not so used into positions where it is needed. Description of this process of hiring control in the United States is the purpose of this paper.

Steps or Stages in Controlled Hiring

Shortages of manpower in war are met, not by some single bold stroke, but by a series of adjustments. The problem is too vast to be attacked in any other manner. Thus, for instance, in the United States, manpower requirements will include, by July, 1944, some 64.4 million persons, as compared with a labor force of 52.5 millions in 1940. Moreover, in this period, some 11.6 millions will have been transferred from civilian pursuits to the armed forces. An almost equal number (11.6 millions) will have been moved into munitions industries, virtually nonexistent before the war. Federal war agencies will have required some two million more. These are but the most obvious and major shifts involved in this mobilization and allocation. The transition from relatively perfect freedom of choice in selecting employment to rather rigid restriction and allocation must be gradual and piecemeal, in part because manpower problems themselves change as this transition is effected.

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The first stage in such mobilization is the expansion of employment within the labor force—the decline of unemployment. In this country, that process is illustrated by the reduction of unemployment from 8.5 millions in 1940 to less than one million in 1943. The major portion of these unemployed, 6.5 millions, were re-employed in the first two years from 1940 to July, 1942.

A second stage involves the actual expansion of the labor force, its growth by addition of persons not normally in the labor market, including women, children, and older and handicapped workers. There were some 3.2 millions of such “entrants” to the labor force from July, 1940, to July, 1942. An additional 3.6 millions came into the labor force in the next year, and an estimated 1.2 million more will be recruited in the year ending July, 1944.

A third stage involves the re-allocation or shifting of available labor forces, including such supplementary reserves as have been mentioned above, from less essential to more essential industries and occupations. That movement or transfer, in the United States, began during the period of the defense program and is still continuing. It is illustrated by the transfer of some 11.3 millions into munitions industries in the United States during the first two years of war, and by the expansion of primary supporting industries from 6.5 millions in July, 1940, to 8.0 millions in July, 1943. The same type of adaptation appears in the growth of agricultural employment from 10.8 millions in July, 1940, to 12.0 millions in July, 1943. This stage involves, of course, extensive training of inexperienced workers. In this country, several major training programs, of which the T. W. I. (training within industry) and E. S. M. W. T. (engineering, science and management war training) are outstanding examples, have been developed to meet these needs.

Finally, all warring nations have found it necessary to insist upon the effective utilization of such manpower as is allocated to various industries. This stage has not achieved extreme recognition in this country, although the imposition of the minimum war-time work-week in tight areas represents a simple illustration of one means employed to force more efficient utilization. A far more extensive and intensive program designed to achieve this objective is now in process. It analyzes production processes and working and living conditions to discern how and where steps can be taken to increase and improve the efficient use of manpower. On the basis of such analysis, it suggests refresher and upgrading programs, improved working and living conditions, work simplification, job dilution, greater use of women, children, and older workers, improved managerial practices, and many other means

by which scarce manpower may be conserved and used with greatest effect.

Allocation Devices, Techniques and Procedures

To meet the war-time problems posed by manpower scarcities, to dispose or allocate manpower to points where it can be best used, warring nations have utilized a variety of devices. They have, moreover, evidenced varying degrees of coordination and integration in the planning or strategy with which these devices have been introduced and developed. Among the most important of these techniques or procedures, the following major types may be noted:

- (1) Direct allocation or assignment of manpower to specific jobs in designated industries. This is at once the most obvious and the most drastic of such techniques. It is what has generally been proposed in bills providing for "national service" in this country. It authorizes those charged with responsibility for manpower to "draft" workers, to direct them into specific positions, and to require them to remain in such positions. In all foreign nations, it has been the last step in the process of manpower allocation.
- (2) Closely related to such assignment of manpower is the preliminary and basic process of allocation or distribution of manpower between military and non-military service. All nations have, of course, faced this problem and developed methods of meeting it either before or immediately after entering upon hostilities.
- (3) Contract allocation. This is a distinctly different approach from that of "national service." The purpose of contract allocation is to take such production tasks as are essential to the workers, rather than to assign labor to specific jobs wherever those jobs exist. By controlling contract allocation, warring governments seek to assure that jobs to be done get to areas and plants where labor supplies are adequate and where labor can be and is efficiently used, and, on the other hand, to prevent the allocation of production to areas where manpower is scarce or cannot be efficiently utilized. This device was among the first to be utilized in England and Germany.
- (4) Closely related are the devices commonly described as "concentration" and "curtailment," in which labor is "combed out" of less essential activities, or such activities are "curtailed" in tight labor markets and concentrated in other localities where labor supplies are less restricted. This process began, in other warring nations, shortly after the start of hostilities. It is a continuing procedure, in which, to an increasing extent, certain less essential activities are restricted, reduced, curtailed, or finally eliminated in tight labor markets. In this country, all agencies have avoided use of this device and hesitated to apply it.

- (5) Coordinated wage and salary control. The fact of labor scarcity has, in all warring nations, tended to be immediately reflected in wages and salaries. Such nations have, on this account, generally taken steps to utilize differentials in wages and earnings to stimulate desirable transfers to essential activities. In several instances, wages in such industries have been supplemented by transportation and "settling in" allowances, calculated to encourage workers to move to points where their contribution could be maximized.

In the United States, no simple pattern of allocation or controlled hiring is apparent. On the contrary, a program designed to accomplish the required transfers and to retain workers in essential jobs has developed by degrees. Some of it has been established by legislation, but more rests directly on Executive Orders and administrative regulations together with voluntary agreements. These controls have thus developed without an overt or obvious, previously stated, plan or strategy. Viewed in its entirety, however, the whole complex of rules, regulations, and agreements, constitutes a program; it includes specific devices designed to meet recognized and forecast needs; it shows premeditation in timing; but it also illustrates the division of authority and control between Legislative and Executive divisions of the national government and the assumption of local responsibility in numerous voluntary employment stabilization agreements.

On this account, the panamora of hiring controls and the development of controlled hiring may perhaps best be viewed in terms of its general sequence, its historical development. To that end, the major elements in the present program of manpower allocation are outlined in subsequent paragraphs.

The Selective Service Act

A primary element in the movement toward manpower allocation in the United States is the Selective Service Act of 1940. The Act was passed as a part of the "defense program" in process at that time. It must be recognized as essentially peace-time legislation, although the machinery it created has been adapted to and utilized throughout the war. The Act established some 1500 local draft or selective service boards, made up of lay members. Upon this foundation, it created a nationwide system of state selective service administrations, with state directors, appeal agents, and appeal boards, together with a National Director of Selective Service.

The system was created to select by lottery not more than 900,000 registrants per year, the latter to receive military training and to serve in the armed forces for one year. This assignment to Selective

Service, it may be noted, is quite different from that of providing ten million men for the military services, the responsibility given Selective Service after Pearl Harbor.

Establishment of the War Manpower Commission

After the Japanese attack on Pearl Harbor on December 7, 1941, and the immediately following declarations of war against Axis nations, the nation gradually recognized the major problems inevitably involved in the mobilization of manpower. During the period of the Defense Program, prior to January, 1941, approximately 6.5 million men had been transferred, through entirely voluntary controls, into munitions industries, and military services had been expanded to include some 2,100,000 soldiers, sailors, marines, and related services. Unemployment had been reduced but there were few signs of serious labor shortage.

Preliminary estimates, based on the concept of the United States as the "arsenal of democracy," indicated that as many as 20 millions might be required in the munitions industries. The recruitment of these added millions was clearly recognized as requiring some positive mobilization policy and agency. Largely on the basis of such vague estimates, the public employment services of the nation, then operating on a federal state cooperative basis, were "federalized" on January 1, 1942. The central government thus acquired another primary element in the machinery for manpower control. These offices were placed under the direction of the Federal Security Agency, whose twelve regional offices were given responsibility for their administration.

To plan and execute a program of manpower mobilization, on April 18, 1942, the President issued Executive Order 9139, which established the War Manpower Commission. The order specified the membership of the War Manpower Commission as including the Federal Security Administrator, as chairman, and representatives of the War, Navy, Labor, and Agricultural Departments, the War Production Board, the Labor Productive Division of the War Production Board, the Selective Service System, and the United States Civil Service Commission.

The Commission thus established was authorized by the Executive Order to formulate plans and programs and establish basic policies for mobilization and utilization of the nation's manpower; to compile and collect labor market statistics and estimates of requirements; to establish policies for Federal agencies engaged in recruiting, placing,

and training of war workers; and to formulate legislative programs designed to facilitate manpower mobilization and utilization.

The composition of the Commission was extended by Executive Order 9184 (June 22, 1942), which eliminated the representative of the Labor Production Division of the War Production Board and of Selective Service and added a representative of the National Housing Authority and a joint representative of the War Shipping Administration and the Office of Defense Transportation. The Order also banned all further enlistments in the Armed Forces and gave the Chairman of the War Manpower Commission authority over all recruitment and hiring of civilian workers. The Commission immediately (June 24) issued a series of eight Directives, which outlined the preliminary plans for manpower mobilization.

The first of these Directives was addressed to the United States Employment Service and instructed it to establish and maintain lists of essential activities and occupations. The second ordered the War Production Board to furnish information as to the relative importance of critical war products. The third required the United States Employment Service to accord placement priorities to essential plants maintaining specified minimum standards of working conditions and manpower utilization. The fourth instructed the employment service to analyze the occupational questionnaires of draft registrants. Directive V instructed the Director of Selective Service to observe essential occupational deferments, while the sixth advised the United States Employment Service to expedite the recruitment of essential agricultural workers. Directive VII was addressed to the Secretary of Agriculture and instructed him to provide adequate housing for transient workers. Directive VIII, addressed to the United States Employment Service, the Department of Agriculture, and the Office of Defense Transportation, specified that they should assure adequate transportation facilities for such transfers of manpower as might be necessary.

The Commission was given additional authority when, on September 17, 1942, Executive Order 9247 specifically placed the United States Employment Service, the National Youth Administration, the Apprentice Training Service, and the Training within Industry Program under the supervision and direction of the Chairman of the War Manpower Commission. Additional control was allocated to it by Executive Order 9279 (December 5, 1942).

Sections 5a and 5b of Executive Order 9279

Executive Order 9279 represents a distinct step toward controlled hiring. It placed the Selective Service System under the direction of the War Manpower Commission, so that it became one of the five Bureaus in the Commission. The five Bureaus at that time included: 1. Placement; 2. Training; 3. Manpower Utilization; 4. Program Requirements; 5. Selective Service. In June, 1943, the Bureau of Program Requirements was eliminated.

At the same time, the Executive Order, in Section 5a authorized the Chairman of the War Manpower Commission to require that all recruitment and hiring be conducted through the United States Employment Service. Further, Section 5b authorized the Chairman to assure that no employer retained any employee if the latter's services were more urgently needed elsewhere in an essential activity.

The authority to require release of critically needed employees, although it has not been drastically applied, became the basis for a considerable part of the Manpower program in the early months of 1943. On the one hand, it placed authority behind the order to analyze occupational questionnaires, as a basis for transfers. On the other, it justified the United States Employment Service in requesting Pacific Coast employers to release experienced lumber workers for the lumber industry. Further, it provided a basis for enforcement of all War Manpower Commission regulations, since it could be used as a penalty for non-compliance.

Incidentally, the analysis of occupational questionnaires turned out to be a major undertaking. These questionnaires were filled out by all Selective Service registrants, from 18 to 65 years of age. By February, 1943, 36 million of them had been received and 33 million had been classified. Results were very disappointing, for most of those requested to transfer refused to make suggested shifts. By late 1943, less than 120,000 transfers had been effected by this means.

Early Anti Piracy Policy

Even before the September, 1942, reorganization of the War Manpower Commission, it had promulgated, on July 16, 1942, a policy statement on labor piracy that suggested several controls on hiring. It called for joint agreement between management and organized labor in each major labor market on an "employment stabilization plan" designed primarily to reduce pirating of workers from essential industries. The period was one of very high labor turnover. The public employment service made 4,700,000 placements in 1942. Many firms had cost-plus or negotiated contracts, so that labor costs were

relatively unimportant. These employment stabilization programs, voluntary in nature and generally restricted to necessary trades and industries, typically provided that participating employers would not hire a worker from other participating employers in the area without a signed release. Plans usually restricted hiring from outside to prevent unnecessary in-migration, too. They thus sought (1) to reduce turnover and labor pirating, and (2) to encourage the recruitment of additional workers to meet needs for munitions and other war-time plants from less essential industries.

These voluntary plans were, as would be expected, highly lacking in uniformity. A few of them provided coverage for all employers and workers in the area. Most of them, however, were restricted to what were generally accepted as "war," "defense" or essential local industries. Several of the plans distinguished employees in essential activities and those in shortage occupations from the rest of the labor force. In such cases, the former could be employed if they presented "statements of availability"; the latter only by referral through the United States Employment Service.

Collection of Labor Market Statistics

In order to allocate manpower, it is obviously necessary to recognize manpower requirements, to know where and when manpower is needed. Further, such manpower requirements must be recognized well in advance, so that manpower mobilization and allocation can be effectively planned and directed.

This nation has never maintained extensive labor market statistics. Hence, immediately after organization of the War Manpower Commission, a system of reporting and compiling such statistics was instituted. It relied primarily on employers' estimates of future labor requirements. Under the system thus developed, all plants employing 50 or more men (a total of 17,000 establishments) are regularly visited by representatives of the employment service. The latter prepare reports of current employment and estimated requirements for six months in advance.

At the same time, current estimates of labor supplies are provided by reference to registrations in the employment offices, together with calculations of the approximate number of women and older citizens who can be drawn into the labor force from each community. On the basis of these estimates of future requirements and reserves, manpower allocation is planned, at the area level and on an overall, nationwide basis.

Classification of Labor Market Areas

Another essential step in preparation for controlled hiring involves the classification of labor market areas on the basis of labor adequacy or scarcity. That step is made possible by the compilation of statistics just described. Local labor markets throughout the nation are regularly classified as to present and prospective manpower balance. Preliminary allocation of contracts during the period of the defense program had given little consideration to this condition, placing major significance on the availability of specialized production facilities. The increasing volume of war production, however, shortly resulted in serious labor shortages in some areas, paralleled by unemployment and labor surpluses in others.

In October, 1942, in recognition of this objectionable development, the War Manpower Commission instituted its system of area classification and advised the War Production Board of the development, with specific recommendations as to further contract allocations. Where shortages were acute, the Commission advised that further contracts should not be awarded if alternative facilities were available. Also, where shortages were anticipated, the Commission asked that contracts with minimum delivery dates more than six months in advance be awarded only if alternative facilities were not available. At the same time, the Commission urged contract allocations in specified loose labor markets.

Three months later, on review of the results of these recommendations, a permanent area classification program was instituted. It provides for the designation of four groups of areas, as follows:

Group I. Present acute shortages: No renewals of contracts and no new contracts if alternative facilities are available.

Group II. Areas of prospective shortage, where substantial immigration will be necessary to meet presently forecast labor requirements and where it will be necessary to draw on reserves not ordinarily in the labor market. Only renewals of contracts requiring no additional workers; no new contracts if alternative facilities are available.

Group III. Presently known labor requirements can be met with little immigration or use of labor reserves. Renewals of contracts at present production levels and awarding of new contracts for delivery within six months desirable.

Group IV. Available labor supplies not fully utilized. All possible contracts to be renewed and placed in these areas.

The classification thus developed is based primarily on employers' reports (E.S. 270's) together with estimates of withdrawals for mili-

tary service and of present and potential labor supplies. Areas are regularly reclassified. The classifications are used not only to advise procurement officers in placing contracts, but also in deciding whether to require the minimum war-time work week.

Designation of Essential Activities

Another of the necessary steps to be taken in developing a program of controlled hiring is represented by the preliminary designation of "essential" activities, first undertaken under one of the Directives of June 24, 1942, mentioned in an earlier section. That directive established as Essential Activities Committee, composed of representatives of the War Manpower Commission, the War Production Board, the War and Navy Departments, the Selective Service System and the Department of Agriculture. The Committee was instructed to prepare and maintain a listing of essential activities and of critical war occupations. The first list of essential activities, consisting of 35 activity groups regarded as engaged in the production of goods, materials, or equipment essential to the war or providing services necessary to the health, safety, or welfare of civilians, was approved by the War Manpower Commission in July, 1942. Thereafter, lists of essential occupations in each of these essential activities were developed. Such an essential occupation has been defined as one that requires at least six months training.

Designation of "Locally Needed" Activities

The list of essential activities is restricted to those which are, on a national scale, of such importance to the effective prosecution of the war as to justify preferential treatment. It is clear, however, that a certain minimum of local services may be absolutely necessary in many other industries, even though that industry or activity could not be given preferred status on an all-inclusive or nation-wide basis. Thus, for instance, a certain minima of laundry or of restaurant service may be essential to keep men and women at work in war industries in a given locality. This condition was clearly recognized in the provision for designation of certain trades and services as "locally needed." Industries so designated enjoy the same preferential status on a local basis as do those on the national essential list, excepting that the designation does not affect the status of the activity as far as Selective Service is concerned. But locally needed trades and services are entitled to the same priorities in recruiting as essential activities.

Field offices of the War Manpower Commission were advised in Field Instruction No. 15 (May 25, 1943, revised September 10, 1943)

that, in such cases a trade or service primarily local in character and necessary to the health, welfare and safety of the locality or necessary for the conduct of an essential activity should be designated as "locally needed" by the Area Manpower Director. Such designation is limited to trades and services in Groups I, II and III areas. It can only apply to establishments in which the necessary activity is the principal activity, where all War Manpower Commission policies are in effect and being observed, where the plant is operating on the minimum war-time work-week, where all luxury services have been suspended, and where wages are not below the going rates or brackets established by the War Labor Board.

Critical Occupations

Meanwhile, on August 16, 1943, a list of "critical occupations," prepared for guidance of the Selective Service System and the employment service, was released. Workers employed in these occupations but in less than essential activities were thereafter to be given 30 days, before their induction into military service in accordance with normal Selective Service procedure, in which to transfer to essential activities. This procedure was based on a recognition that shortages in these occupations were so serious as to necessitate special action designed to effect the transfer of all skilled workers in them into essential activities. Workers in critical occupations and in essential activities were, of course, deferred. Also, as will be noted, local employment stabilization plans frequently included special provisions restricting the transfers of workers in these occupations, generally requiring that they can only transfer by referral through the public employment service.

Replacement and Manning Tables

Exactly one year after the beginning of American participation in the war, December 7, 1942, the National Director of Selective Service issued instructions to state directors on the use of manning and replacement tables. These tables, developed in the new Bureau of Manpower Utilization, sought to provide for the orderly separation of manpower from the payrolls of industry to enter military service and to aid in establishing criteria by which to judge the relative effectiveness of manpower utilization in various plants.

The manning table, when developed by management of a plant, shows the composition of its labor force, the number of men and women employed in each department or division, the ages and numbers of dependents of male employees, the extent to which handicapped workers are being used, and the length of training required

for each position. On the basis of such a manpower inventory, management is able to prepare and Selective Service to approve, a definite schedule of separations, inductions, and replacements. When tabulated, this schedule of replacements provides a "replacement table" for the plant. The latter shows, for each such firm, the number and type of employees to be released for military service each month, and the number and type of replacements necessary to meet this schedule. It thus coordinates recruitment, deferment, inductions into military service, and training and upgrading programs, at the same time that it provides a check on the effectiveness of manpower utilization. The latter result is provided by comparisons, from plant to plant, of the proportions of employees engaged in various specific operations and of the use of women and of older and handicapped workers in various processes. The manning table, when made available to the various Selective Service Boards involved in classification of a plant's employees, provides them with a uniform statement of the significance and status of each employee in the plant.

Designation of Non-deferable Activities

Analysis of occupational questionnaires and accompanying efforts to get men to move to points where their skills could be more effectively used in the promotion of the war quickly indicated the reluctance of workers to make such transfers. As one means of forcing these necessary transfers, the War Manpower Commission, on February 3, 1943, announced the designation of certain non-deferable activities and occupations. The Commission explained that the nation could not afford to allow able bodied men of military age to remain in these less than essential jobs. Hence, after April 1, such workers as remained in these activities and occupations were deprived of dependency deferment, except in unusual, hardship cases.

Thirty-five occupations together with 19 manufacturing, 8 wholesale and retail, and 9 service activities, were declared to be non-deferable. As of April 1, registrants still employed in these activities and occupations were given 30 days in which to transfer to essential activities and occupations.

The list of non-deferable activities was further extended by amendment on August 16, 1943.

Special Controls for Agricultural Labor

The immediate shortage of agricultural workers represented are of the more serious manpower problems in 1942 and 1943. The greatly improved employment and wage status of industrial workers in this period caused an early exodus from the farms of the nation. Cam-

paigns to encourage increased participation by women and school children, and the actual importation of some 8,000 Mexican laborers in 1942 and early 1943, failed to provide sufficient farm help.

In this situation, and in spite of the fact that military inductions from agricultural labor were already disproportionately small, specific administration action designed to maintain an adequate force of farm workers appeared essential. In October, 1942, War Manpower Commission Directive XIV specifically ordered deferment of essential dairy, livestock, and poultry operators and workers. Then, in November, 1942, Congress passed the Tydings Amendment to the Selective Service Act, in which it declared that every registrant "necessary to and regularly engaged in an essential agricultural occupation or endeavor" should thereafter be deferred. The Department of Agriculture was asked to indicate which farm workers were essential. The Department's ruling excluded only a small proportion of all agricultural workers. The War Manpower Commission then sought to establish standards in terms of what were designated as "war units" of production. When there was widespread objection to this device, and when considerable numbers of agricultural workers continued to avoid requests for deferment, local Selective Service boards were instructed to defer such workers even if no request for deferment was made, and local county war boards were authorized to request deferment for such employees.

Meanwhile, the President announced, on March 30, 1943, a plan to furlough men over 38 years of age from military service to assist on the farms. Meanwhile, also, regulations on transfers (In Regulations IV and VIII) were carefully designed to permit workers to enter agriculture without difficulty and to release them from agriculture only under limited conditions. Employment stabilization plans also tended to discourage transfers out of agriculture.

Employment Stabilization Plans

As has been suggested in earlier paragraphs, the most important device developed in the United States to effectuate hiring controls is the so-called "employment stabilization plan." In the early months of the war, these plans were developed on a voluntary basis in most tight labor market areas and in some of the looser areas. They were stimulated by the early War Manpower Commission policy statement on labor piracy. They sought to reduce labor turnover and to prevent or restrict labor piracy and, at the same time, to regulate the influx of migrants into congested areas whose housing and community facilities were already over-crowded. They exerted control over the hiring of new workers by employers. They commonly provided that cer-

tain types of new employees, most frequently those formerly employed in essential activities, could only be hired upon presentation of a release of "statement of availability" from their present or most recent employer. They further specified the conditions under which such releases or statements of availability should be granted. Employers were commonly required to give such certificates to employees who were discharged, or indefinitely laid off, or could not be used at their highest skills of use in the war effort, or were not being paid prevailing wages, or were suffering undue hardship in remaining in their present employment. Under these circumstances, if the employer did not give the worker such a statement of availability, the employment service would do so. Penalties were provided for employers who hired workers in violation of these provisions. Administration of these plans was generally placed in the hands of the War Manpower Commission Area Director, but detailed supervision and control naturally fell on the local public employment offices.

At the same time that these area programs were appearing on a voluntary basis, several industry-wide plans of a similar nature appeared. Stabilization plans for lumbering and non-ferrous metals in twelve western states were approved by the Chairman of the War Manpower Commission on September 7, 1942. Other plans were instituted in the needle trades in Boston and in shipbuilding in New York.¹

On April 8, 1943, Executive Order 9328 was issued. Its Section 3 provided additional authorization for hiring controls. It stated that:

"The Chairman of the War Manpower Commission is authorized to forbid the employment of any new employee or the acceptance of employment by a new employee except as authorized in accordance with regulations which may be issued by the Chairman of the War Manpower Commission, with the approval of the Economic Stabilization Director, for the purpose of preventing such employment at a wage or salary higher than that received by such new employee in his last employment unless the change of employment would aid in the effective prosecution of the war."

The War Manpower Commission saw in this order a mandate to exercise additional controls over transfers to help "hold the line." It saw, further, a grant of additional authority that could be used to strengthen existing controls in employment stabilization plans in tight areas. The Commission thereupon issued its Regulation IV, and, as manpower shortages became increasingly serious, followed it with Regulation VII.

¹ All such industry plans were terminated by Regulation VII (Section 907.3, Subsection f), which further provided that no new industry plans were to be established after September 15, 1943.

Regulation IV: Regulation IV was issued on April 16, 1943, and became effective April 18, 1943. It proposed to exercise the authority granted it by Executive Order 9328 to strengthen its controls over transfers, to stimulate transfers into essential activities, and to reduce labor turnover aside from that occasioned by such necessary transfers. To accomplish these ends, the original Regulation IV distinguished four types of transfers, including those:

- (1) from a less than essential to an essential activity;
- (2) from an essential to a less than essential activity;
- (3) from one essential activity to another;
- (4) from one less-than-essential to another less-than-essential activity.

The first type, from a less than essential to an essential activity, was permitted without restriction even though it involved an increase in pay. The second, from an essential to a less than essential activity was completely prohibited if it involved an increase in wage or salary. The fourth type, intra-less-than-essential, was not subjected to regulation.

The third type of transfer, from one essential activity to another, was permitted only in areas or industries having War Manpower Commission employment stabilization programs. In such areas, transfers at higher rates of pay were authorized if made according to the provisions of these stabilization programs. The regulation further provided that the bases for issuing statements of availability and thus permitting such transfers should include discharge, indefinite layoff, and employment at less than highest skill. The regulation specifically provided that employment at less than prevailing rates of wages or salary shall not alone justify issuance of the statement of availability. The regulation prohibited either the hiring by an employer or the acceptance of employment by an employee under the prescribed conditions. Penalties affecting both employers and workers were provided for violations. Offending employers or employees are subject to a fine of \$1,000 or one year's imprisonment or both. Further, employers face civil penalties, identical with those later provided for violation of Regulation VII and described in a later paragraph.

The regulation was revised on August 16, 1943. As revised it excluded from the controls thus imposed all agricultural employment, short-term (less than seven days) employment, supplementary employment, hiring in the territories other than Alaska and Hawaii, hiring by state and local governments except where such government elects to come under the provisions of the regulation, and employment of domestics. A new employee is defined as one who has not been in the employ of the hiring employer during the preceding 30 days.

The original form of this regulation created an immediate demand for more stabilization programs. Only a small part of the nation was included in the coverage of these plans. In all other areas, the regulation virtually "froze" employees in essential activities to their jobs, in that only transfers at equal or lower rates of wages or salaries were permissible. At the same time, numerous objections were advanced against the discrimination by which employees in essential activities were restricted while those in less-than-essential activities were free to move about at will. Accordingly, the revision provided that *all* transfers at higher rates of pay were prohibited if they violated the terms of an employment stabilization agreement. Meanwhile, steps were taken to establish minimum standards for such employment stabilization plans, requirements which could be required of all such plans and could thus provide uniform controls over hiring. Meanwhile, also, numerous additional plans were established, some of them on a region-wide basis, so that the entire nation was included in the coverage of these plans.

These uniform standards for controls of transfers and thus of hiring emerged in Regulation VII, effective October 15, 1942.

Regulation VII: On the foundation provided by these earlier steps, the final (to this time) measure in the program of hiring controls is represented by War Manpower Commission Regulation VII. That regulation, depending for its authority on Executive Orders 9139, 9279, and 9328, establishes standards for employment stabilization plans and thereby sets the pattern for controlled hiring throughout the entire nation.

Regulation VII is, in many respects, an expansion and elaboration of Regulation IV. It provides detailed authority for controls over all types of transfers and makes much of this control mandatory by requiring its inclusion in all approved stabilization plans and forcing the establishment and maintenance of such plans throughout the entire nation. Major provisions of the regulation may be outlined as follows:

- (1) It requires that, in all area stabilization programs, all advertising, hiring, and solicitation of workers must be conducted according to the terms of these programs.
- (2) It stipulates that employment stabilization programs must be established in all areas by September 20, 1943.
- (3) It provides that, wherever no plans are in effect, the provisions of Regulation VII relating to minimum standards in controlled transfers shall be regarded as a temporary stabilization plan, effective until an approved plan is put into operation.
- (4) It requires that all stabilization programs already in existence shall conform to the terms of these new minimum standards

and shall be submitted for approval by Regional Manpower Directors.

- (5) The specific controls on transfers and hiring thus instituted are prescribed in the minimum requirements for stabilization plans stated in Sections 907.4, 907.5, and 907.6. All employment stabilization plans except those providing for initial issuance of statements of availability by the United States Employment Service shall contain these minimum provisions.

The controls thus exercised are implemented by (1) statements of availability issued to employees by employers or by the employment service, which statements are in effect negotiable authorizations to other employers in essential activities, permitting the employment of the workers, and (2) referral, by which is meant the specific authorization of the United States Employment Service directed to a designated employer, to hire the employee so referred.

The regulation thus becomes a system of controls imposed upon hiring through specification of conditions under which statements of availability or referral shall be used. These controls must be applied to all workers in essential and locally needed activities. Such individuals may be hired only upon presentation of a statement of availability or referral by the employment service.

Under the requirements imposed by this regulation, statements of availability can be issued by employers for five and only five specifically stated reasons, including: (1) termination of employment by the employer; (2) indefinite lay-off; (3) undue personal hardship affecting the worker; (4) substandard wages or working conditions; (5) and wages which could be raised under existing War Labor Board policies (provided the employer has not applied for such adjustment). If an employer refuses to issue a statement of availability under any of these five circumstances, the United States Employment Service is instructed to do so. The Employment Service is further instructed to issue such a certificate to any employee of an employer who fails to comply with the terms of any approved War Manpower Commission employment stabilization program, regulation, or policy.

Similar rules govern referrals by the Employment Service. Individual workers who are not employed in a capacity that utilizes their highest skill in the war effort can be referred to other employment where these skills will be more effectively utilized. Equally important, there are certain types of transfers that can only be effected through referral. All employment for critical occupations or transfers of workers last engaged in critical occupations is of this type. So also is employment of a worker who has come to a locality within the preceding 30 days. Similarly, an employee in agriculture can transfer

out of that activity only by referral (except for short-time jobs of less than six weeks duration).

These controls are not applied to all types of workers. Agricultural hiring is excluded, as are short-term employments of less than seven days; supplementary employment; hiring in the territories, other than Alaska and Hawaii; hiring by foreign governments or by state and local agencies; and the hiring of domestics and school teachers. A new employee is defined as one who has not been employed by the hiring employer in the preceding 60 days.

In addition to these required minimum hiring controls, Regulation VII authorizes individual employment stabilization plans to enforce certain specified additional restraints. They may, for instance, require that certain transfers, in addition to those mentioned, shall be by referral through the employment service only. Thus, local plans may require referral for all transfers affecting workers now or most recently in local shortage occupations, not on the critical list. Local plans may also include provisions designed to protect seniority or re-employment rights, to promote effective manpower utilization, to protect employees against arbitrary discharge, to facilitate transfers to temporary or part-time work, to enforce these regulations, and to eliminate small plants (8 employees or less) from coverage of these restrictions.

Authority and Enforcement Possibilities

There are teeth in Regulations IV and VII and the restrictions imposed by approved employment stabilization plans, although they have not, in many localities, been bared. As has been noted, both Regulation IV and Regulation VII exercise authority based on the Anti-inflation Act of October 2, 1942, as well as on the earlier Executive Order 9279 and Executive Order 9328. These executive orders rest on the War Powers Act as well as the Anti-inflation Act.

Regulation of transfers involving increased earnings carries with it both criminal and civil penalties for violation. Failure to conform to the regulations may be punished by fine (\$1,000 for the first offense) and imprisonment for one year, or both, and by disallowances in which wages paid in violation of the regulation cannot be calculated in production costs or deducted for income tax purposes.

In addition, there are other penalties that may be applied. An employer may lose his contracts with government procurement agencies, he may face disallowance of such wages as have been paid to workers improperly hired when contracts are renegotiated, he may encounter War Production Board refusals to provide necessary materials pri-

orities. The Employment Service may issue statements of availability or referrals to his employees, thus encouraging his men to leave him, or it may refuse to permit any hiring by him. Finally, War Manpower Commission representatives may require the return of an employee whose transfer was not made in accordance with these regulations and an employment stabilization plan approved according to their provisions.

Conclusion

These, then, are the essential elements in the program of hiring controls and manpower mobilization and allocation in the United States. The course of their development during the first two years of war in the United States has been traced in preceding paragraphs. The program began with Congressional action in the pre-war period, providing a national Selective Service System. It was officially recognized when the War Manpower Commission was formed. It has developed in the form of a series of Executive Orders, Directives, policy statements, and Regulations, coupled with numerous voluntary employment stabilization programs. With increasing labor scarcities, local voluntarism has played a lesser part, and centralized regulation and control have increased. In the most recent period, such mandatory controls have played a prominent part, for the formerly voluntary stabilization plans have been imposed on all areas and industries and have been forced to assume a certain prescribed minimum of detailed regulatory provisions.

The controls thus far utilized have been largely negative rather than positive. They have avoided specific assignment of manpower in favor of restrictions on transfers. They have held men in jobs selected on a voluntary basis, rather than to force acceptance of designated positions. If the war ends with no additional mandatory controls, this country will be the only great nation to have avoided actual assignment and national service. They are logical next steps in increasing hiring controls.